IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**And**

**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 7529 of 2004**

Between:

Y. Yohan S/o Essock, Khalasi Helper, SSE/C&W/o Narasapur, West Godavari District A.P., South Central Railway, Vijayawada Division.

**..... PETITIONER**

AND

1 The Officer on Special duty, Guntur Divisional Office, (Personnel Branch) South Central Railway, Vijayawada Division, Vijayawada.
2 The Additional Divisional Railway Manager, South Central Railway, Vijayawada Division, Vijayawada.
3 The Senior Divisional Mechanical Engineer, Carriage & Wagon, South Central Railway, Vijayawada Division, Vijayawada.
4 The Additional Divisional Mechanical Engineer, Carriage & Wagon, South Central Railway, Vijayawada Division, Vijayawada.
5 The Assistant Mechanical Engineer Carriage & Wagon, South Central Railway, Vijayawada Division, Vijayawada
6 The Senior Divisional Personnel Officer, South Central Railway, Vijayawada Division, Vijayawada.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a Writ more particularly in the nature of Writ of Mandamus by declaring the action of the respondents in finding the petitioner guilty

of the charges, and imposing the punishment of reducing the pay in the same scale of pay for 3 1/2 years recurring, as arbitrary, vindictive, based on no evidence and denial of reasonable opportunity, and non application of mind without providing personal hearing and the Hon'ble Tribunal also upholding the same, as arbitrary, illegal being violation of the Art. 14,16 & 21 of the Const. of India and set aside the order No. B/P 90/111/2001/6(RP) dt 21-5-2002 passed by R1, order No. B/P 90/111/2001/6 (A) dt 6-12-2001 of R3, Order No. B/P 227/III/C&W/2000/2003 21-9-2001 passed by R4 and also the Judgment dt 4-8-2003 and also the order dt 13-10-2003 in OA No. 1306 of 2002 and in RA 65/2002 by the Hon'ble CAT Hyderabad and consequently to direct the respondents to grant pay fixation restoring the pay of the petitioner by adding increments till date and to pay the arrears of pay so reduced along with consequential benefits such as seniority etc.

**Counsel for the Petitioner: MR.KRISHNA DEVAN**

**Standing Counsel for the Respondents: MR.N.PARAMESHWARA REDDY**

**The Court made the following:**

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ORAL ORDER: (per GB.J.)

Yesterday when the matter reached the Board, the learned counsel for the petitioner was not present and therefore it is directed to be posted today for 'orders'. Therefore, the matter is heard on merits.

2. The Writ Petition is filed assailing the order passed by the Central Administrative Tribunal (for short Tribunal) in O.A.No.1306 of 2002, dated 4.8.2003.

3. The petitioner was working as Khalasi. While so, due to the dereliction of duties an enquiry was initiated against him by framing the following charges:

> "I) On 6.4.1998 when he was deputed to clean the berth of nominated coaches, he refused to do though instructed by his Supervisor Ch.G.Rama Reddy.
>
> II) On 16.1.1999 he refused to clean the coaches though instructed by his Supervisor V.Govindarao.
>
> III) On 27.2.1999 he refused to clean the allotted coaches though instructed by his Supervisor V.Venkateshwara Rao.
>
> IV) On 4.4.1999 he refused to clean the allotted coaches though instructed by Supervisor V.Venkateswara Rao.
>
> V ) On ¾.7.1999 he did not clean the coaches passenger rake properly though instructed by Supervisor Ch.G.Rama Reddy; and
>
> VI. On 5.9.1999 he did not clean the coaches properly though instructed by the Supervisor P.Pitchaiah and further he did not turn up for night duty shift on 5/6.9.1999".

After the enquiry, the punishment was imposed on 6.12.2001 reducing the time scale to the minimum of the scale i.e., Rs.2650/- in scale of Rs.2650-4000 RS(RP). Against the said order he filed an appeal and also the Revision without any success. Thereupon he challenged the order of punishment before the Tribunal in the above OA. The learned Tribunal, after considering the matter, dismissed the OA on the ground that there was no material to interfere with the

order of punishment passed by the authorities. Against the said order, the present Writ Petition has been filed.

4. The learned Standing Counsel for Railways Mr.N.Parameswara Reddy now submits that after the punishment, the petitioner was again involved in another misconduct of unauthorized absence and he was removed from service after conducting domestic enquiry. On appeal, the appellate authority reduced the punishment to that of compulsory retirement and the same has become final. He submits that in view of the subsequent punishment, no further orders are necessary in the Writ Petition.

5. Be that as it may, we have also perused the order of the Tribunal and also the material available on record and we find that the disciplinary proceedings initiated against the petitioner cannot suffer from lack of evidence or jurisdiction. Thus, we do not find any merit in the Writ Petition.

6. Accordingly the Writ Petition is dismissed. No costs.

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G.BIKSHAPATHY, J.

28th January, 2005.

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P.S.NARAYANA, J.

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Officer on Special duty, Guntur Divisional Office, (Personnel Branch) South Central Railway, Vijayawada Division, Vijayawada.
2 The Additional Divisional Railway Manager, South Central Railway, Vijayawada Division, Vijayawada.

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6 The Senior Divisional Personnel Officer, South Central Railway, Vijayawada Division, Vijayawada.

7 The Registrar, Central Administrative Tribunal, Hyderabad.

8 2 CCs to Mr.N.Parameshwara Reddy, Standing Counsel for Railways, High Court of A.P. Hyderabad. (OPUC)

9 2 CD copies